

P19570.A13



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : S. SCHRAGA

Group Art Unit: 3731

Appl. No. : 09/592,680

Examiner: Bui

Filed : June 12, 2000

For : LANCET HAVING ADJUSTABLE PENETRATION DEPTH

ELECTION WITH TRAVERSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This is in response to the requirement for election of species under 35 U.S.C. 121 mailed from the U.S. Patent and Trademark Office on September 23, 2003, which sets a three month shortened statutory period for response October 24, 2003.

Applicant notes that this response is being submitted prior to the expiration of the initial due date of October 23, 2003, and is, in fact, being filed prior to the expiration of one month from the mailing of Office Action, whereby an extension of time and an extension of time fee are not required for maintaining the pendency of the application. However, if any government fees are required for maintaining the pendency of this application, including any extension of time fees, Applicant hereby expressly requests any required extension of time, and authorizes that any required fee, including any required extension of time fee, be charged to Deposit Account No. 19-0089.

Reconsideration and withdrawal of the requirement for election of species is respectfully requested in view of the remarks which follow:

#12
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S. Buyer
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RESTRICTION REQUIREMENT

The Examiner has required Applicant under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, the Examiner states that claim 1 is generic.

The species are indicated in the Office Action to be the following:

- I Fig. 3
- II Fig. 7
- III Fig. 10
- IV Fig. 11
- V Fig. 14
- VI Fig. 15
- VII Fig. 16
- VIII Fig. 17
- IX Fig. 18
- X Fig. 19
- XI Fig. 20

ELECTION

In order to be responsive to the requirement for election of species, Applicant elects the species of Fig. 7 which includes a spring biasing member. Applicant respectfully submits that at

P19570.A13

least each of the independent claims is generic, and at least claims 20-28 and 33-127 are readable on the elected species.

TRAVERSE

Notwithstanding the election of the species of Fig. 7 which includes a spring biasing member, Applicant respectfully traverses the requirement.

Initially, it is noted that the requirement for election of species is devoid of any indication as to the species that are to be elected. The requirement merely refers to Figures in the application that include various features, and no indication is provided in the Office Action as to the species that are considered restrictable between the different Figures. Applicant has made an attempt in the instant election to point to one of the features, such as spring biasing illustrated in Fig. 7, which would, of course, also include spring biasing as illustrated in Fig. 8 (which is not indicated to be one of the species that can be separately elected).

Still further, claims 20-127 are indicated to be subject to the requirement for election of species. However, claims 29-32 were canceled in the Preliminary Amendment filed June 12, 2000, which also canceled claims 1-19.

Still further, the requirement indicates that claim 1 is generic. However, claim 1 is not pending at the time of the requirement.

Therefore, in the event that this requirement is maintained, it is respectfully requested that the requirement for election of species identify the species to be elected, appropriately identify the claims

P19570.A13

included in the requirement, and appropriately identify which claims are considered to be generic by the Examiner.

As to the merits of the requirement for election of species, the requirement is traversed since there would not appear to be a serious burden to examine Applicant's application in total, and for which the appropriate claim fees have been paid. Applicant submits that it would be no serious burden on the Examiner to examine all of the pending claims, because a search for all of the claims in the above-identified application, should be made in order to do a complete and thorough search of the generically claimed invention.

In view of the foregoing, it is respectfully requested that the Examiner seriously reconsider the requirement for restriction and election of species, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application. In any event, while all claims have been indicated to be readable on the elected species, if the Examiner deems that any claims are not readable on the elected species, such claims should be rejoined upon allowance of one or more generic claims.

CONCLUSION

For the reasons discussed above, it is respectfully submitted that the election of species is improper and should be withdrawn.

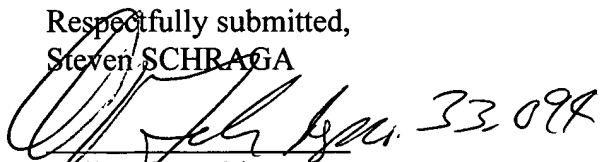
Withdrawal of the requirement for election of species with the examination of all claims pending in this application is respectfully requested.

P19570.A13

Favorable consideration with early allowance of the pending claims is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,
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October 23, 2003
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